

REMARKS/ARGUMENTS

The Office Action has been carefully considered. Claims 1-3 and 13-14 are amended to clarify the intended scope of subject matter for which protection is sought. Claim 17 is amended to correct a possible antecedent basis issue. Claims 1-37 are pending.

In the Office Action, claims were rejected in the following manner.

1. Claims 1-37 were rejected under 35 U.S.C. § 102(e) as being unpatentable over O’Laughlen et al’s U.S. Patent No.: 7,089,246 (hereinafter “*O’Laughlen*”).

Finality of the Next Action Is Precluded (Claims 17-27 and 29-37)

The Office Action provided rationales or explanations as to how *O’Laughlen* assertedly anticipates only the elements included in Claims 1-12. In the Office Action at 4, Claims 13-27 and 29-37 were said to be “similar in scope” to Claims 1-12, and Claims 13-27 and 29-37 were therefore rejected “under the same rationale” as Claims 1-12 (and 28, which was analyzed identically to Claim 1). However, Claims 17-27 and 29-37 recite additional elements that are not included in any of Claims 1-12. Consequently, the Office Action has failed to address any of these additional elements and has failed to state a *prima facie* case that Claims 17-27 and 29-37 are anticipated.

For example, independent Claim 17 is directed to a “method for delivering media from a media service provider to a **plurality of subscribers**, each **subscriber** communicating with the media service provider using a middleman server coupled to a set of media rendering devices on the **subscriber's** local network.” The “plurality of subscribers” element and other elements related to “subscribers” are not included in any of Claims 1-12. Consequently, the Office Action has omitted any assertion that *O’Laughlen* anticipates these subscriber-related elements, thereby failing to state a *prima facie* case that *O’Laughlen* anticipates Claim 17 (which includes additional elements not recited in any of Claims 1-12). By extension, Applicant respectfully submits that the Office Action has also failed to state a *prima facie* case that any of Claims 18-27, which depend from Claim 17, are anticipated.

In addition, Claims 23-25 recite additional elements that are not included in any of Claims 1-12. In particular, Claims 23-25 specify that each of the subscribers pays a fee that is based at least in part on a specified factor (specifically, “the predetermined maximum of concurrent sessions allowed for the subscriber,” “the number of media rendering devices that

are approved to receive protected media content,” and “the types of media rendering devices that are approved to receive protected media content”). The Office Action has omitted any assertion that *O’Laughlen* anticipates any of these additional elements related to subscribers paying a fee based on one of the specified factors, thereby failing to state a *prima facie* case that *O’Laughlen* anticipates Claims 23-25 (which include additional elements not recited in any of Claims 1-12).

Moreover, Applicant respectfully submits that that Office Action has also failed to address additional elements found in Claims 29-37. It is well accepted that it is not sufficient merely that “each and every element as set forth in the claim is found, either expressly or inherently, described in a single prior art reference.” *See* MPEP § 2131. Rather, an anticipatory reference must show “[t]he identical invention... in as complete detail as contained in the... claim.” MPEP § 2131. Moreover, the elements must be arranged as required by the claim. MPEP § 2131.

Independent Claim 29 requires that various elements are arranged in ways that were not specified in any of original Claims 1-12, as examined in the Office Action. Therefore, the Office Action has omitted any assertion or explanation as to how *O’Laughlen* could be said to anticipate Claim 29 or any of its dependent claims.

For example, Claim 29 requires that certain elements (e.g., “verifies based on the received device ID whether the media rendering device is approved to access the requested media item, and grants the request if the media rendering device is approved to access the requested media item”) are performed by “a system server remotely coupled to the middleman server.” This required arrangement of elements was not included in any of original Claims 1-12, as examined in the Office Action. Therefore, the Office Action has omitted any assertion or explanation as to how *O’Laughlen* could be said to anticipate Claim 29, which specifies an arrangement of elements that was not included in any of Claims 1-12.

Moreover, Applicant respectfully submits that that Office Action has also failed to address additional elements found in Claim 33, namely a “user interface for communicating with the system server, allowing a user to provide an approved rating range associated with the media rendering devices on the local network....” The claimed user interface element was

not included in any of Claims 1-12 and the Office Action therefore omitted any assertion that *O'Laughlen* anticipates the claimed user interface element, thereby failing to state a *prima facie* case that *O'Laughlen* anticipates Claim 33.

Applicant respectfully submits that the omissions discussed above amount to a failure to articulate a *prima facie* case of unpatentability of at least Claims 17-27 and 29-37. Therefore, Applicant respectfully submits that the burden to rebut these rejections has not yet shifted to the Applicants. Consequently, any further Office Action rejecting Claims 17-27 and 29-37 cannot properly be made final because only then would the Applicant be obligated to rebut the rejection, presuming that such an Office action sets forth a *prima facie* case. See MPEP § 706.07(a).

35 U.S.C. § 102(e) Rejections

Claims 1-37

Claims 1-37 were rejected under 35 U.S.C. § 102(e) as being unpatentable over *O'Laughlen*. Above, Applicant has addressed the Office Action's failure to state a *prima facie* that Claims 17-27 and 29-37 are anticipated by *O'Laughlen*. As discussed further below, Applicant respectfully submits that the Office Action has failed to state a *prima facie* case that Claims 1-16 and 28 are anticipated by *O'Laughlen*. Nonetheless, Applicant has amended Claims 1-3 and 13-14 to further clarify the intended scope of the subject matter for which protection is sought.

For example, amended Claim 1 recites a method for providing conditional access to media content, the method comprising:

receiving a request for the media content destined for a remote media rendering device, the request received by a media service provider server from a remote middleman server connected to the media rendering device on a local network;

receiving, by the media service provider server, a device ID associated with the remote media rendering device;

verifying, by the media service provider server, based on the received device ID whether the remote media rendering device is approved to receive the requested media content; and

granting the request, by the media service provider server, if the remote media rendering device is approved to receive the requested media content.

Thus, amended Claim 1 is directed to a media service provider server in communication with a remote middleman server that is locally connected to a media rendering device. The media service provider server receives a device ID from the middleman server. Based on the device ID, the media service provider server verifies whether the media rendering device is approved, and the media service provider server grants the request if the media rendering device is approved.

By contrast, *O'Laughlen* is directed to a host on a private network that acts as a proxy between a client on the private network and a (public) network, handling requests from the client to access network information. *See* Col. 3 30-38, 59-62. The local proxy server acts to “approve, block, or restrict access to network information” that the client requests from the (public) network.

Thus, *O'Laughlen* fails to disclose that a remote media service provider server verifies whether the media rendering device is approved, and *O'Laughlen* similarly fails to disclose that the remote media service provider server grants the request if the media rendering device is approved. For at least this reason alone, Applicant respectfully submits that Claim 1 is allowable over *O'Laughlen*. Claims 2-12 and 28 are allowable at least by dependency.

Similarly, *O'Laughlen* fails to disclose “if the device ID indicates **to the media service provider** that the media rendering device is authorized to receive the requested media item, receiving the requested media item by the middleman server from the media service provider,” as claimed in amended Claim 13. Accordingly, Applicant respectfully submits that Claim 13 is allowable over *O'Laughlen*. Claims 14-16 are allowable at least by dependency.

In addition, dependent claims 2-12 and 14-16 recite additional patentable subject matter not taught or suggested by the cited art. For example, *O'Laughlen* fails to disclose that “the device ID uniquely identifies **to the media service provider server** the remote media rendering device that made the request,” as claimed in amended Claim 2. On the contrary, *O'Laughlen* discloses merely that “proxy server 132 may assign a client identification (ID) or ticket to the client 120. The client ID may be used [by the proxy server] to enable communications between the client 120 and the network (and its associated services 105).”

O'Laughlen also fails to disclose that “the device ID uniquely identifies to the media service provider server the **type** of remote media rendering device that made the request,” as claimed in Claim 3. On the contrary, *O'Laughlen* at most merely lists a number of different pieces of hardware that may implement a client. *See* Col. 2 59-67, Col. 3 1-3. Nowhere does *O'Laughlen* disclose that a device ID identifies to the media service provider server the **type** of the device making the request via the middleman server.

O'Laughlen also fails to disclose that the device ID includes any of the following items corresponding to the remote media rendering device as claimed in Claim 4: “a manufacturer ID, a model number, a serial number, a MAC address, a portion of a MAC address, or a digital signature.” On the contrary, at most, *O'Laughlen* discloses merely that “the client ID may be a network address” such as an IP address. Col. 4 19-22. MAC addresses (as claimed in Claim 4) differ from network addresses such as IP addresses (as disclosed by *O'Laughlen*).

O'Laughlen also fails to disclose “establishing a secure communications channel with the middleman server before sending the requested media content to the middleman server,” as claimed in Claim 6.

O'Laughlen also fails to disclose that “a number of concurrent sessions is limited to a predetermined maximum,” as claimed in Claim 8.

For at least the reasons discussed above, Applicant further respectfully submits that the Office Action has failed to state a *prima facie* case that Claims 2-4, 6, and 8 are anticipated by *O'Laughlen*.

Conclusion

For at least the reasons above, Applicants respectfully submit that all pending claims are allowable and request that the Examiner permit these claims to proceed to issuance. Although additional arguments are believed to exist for distinguishing the cited documents, the arguments presented are believed sufficient to address the Examiner's rejections. Likewise, failure of the Applicants to respond to a position taken by the Examiner is not an indication of acceptance or acquiescence of the Examiner's position. Instead, it is believed that the Examiner's positions are rendered moot by the foregoing arguments, and it is

therefore not believed necessary to respond to every position taken by the Examiner with which Applicants do not agree.

The Examiner is respectfully requested to contact the undersigned at the telephone number below if there are any remaining questions regarding this application.

We believe the appropriate fees accompany this transmission. If, however, insufficient fee payment or fee overpayment occurs, the amount may be withdrawn or deposited from/to ÆON Law's deposit account. The deposit account number is 50-4051.

Respectfully submitted,

ÆON LAW

Date: July 29, 2010

by: /Adam L.K. Philipp/

Adam L.K. Philipp - Reg. No.: 42,071

Direct: 206.217.2226

E-mail: adam@aeonlaw.com

ÆON Law
1525 4th Avenue, Suite 800
Seattle, WA 98101
Telephone: 206-217-2200
Customer No.: 61,857